THE BOMBAY CRIMINAL PROCEDURE AMENDMENT ACT, 1953.

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BOMBAY ACT No. XXXIV OF 1953.[1]

[THE BOMBAY CRIMINAL PROCEDURE AMENDMENT ACT, 1953.]

[*3rd June 1953*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the State of Bombay and the Bombay Separation of Judicial and Executive Functions Act, 1951.

V of 1898. Bom. XXIII of 1951. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the State of Bombay and the Bombay Separation of Judicial and Executive Functions Act, 1951, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Criminal Procedure Amendment Act, 1953.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

Amendment of section 12 of Act V of 1898.

V of 1898. **2.** In the Code of Criminal Procedure, 1898, in its application to the State of Bombay (hereinafter called the said Code), in sub-section (*1*) of section 12, for the words "may, from time to time" the words "the Sessions Judge, subject to the control of the High Court, may, from time to time" shall be substituted.

Amendment of section 13 of Act V of 1898.

3. For section 13 of the said Code, the following section shall be substituted, namely :—

Appointment of Sub-Divisional Magistrates and Taluka Magistrates and their jurisdiction.

"13. (*1*) The State Government may appoint as many persons as it thinks fit to be Sub-Divisional Magistrates and Taluka Magistrates in any district outside Greater Bombay.

(*2*) The State Government or, subject to the control of the State Government, the District Magistrate, may place,—

(*i*) any Sub-Divisional Magistrate in charge of a sub-division, and

(*ii*) any Taluka Magistrate in charge of a taluka or mahal."

Amendment of section 37 of Act V of 1898.

4. For section 37 of the said Code, the following shall be substituted, namely :—

Additional powers conferable on Magistrates.

"37. (*1*) In addition to his ordinary powers,—

(*a*) the State Government may invest any Magistrate with any of the powers as specified in the fourth Schedule, and

(*b*) a Sessions Judge may invest any Judicial Magistrate within his local jurisdiction with the powers specified in sub-part (B) of Part I of the fourth Schedule.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, pp. 292-293.

(*2*) (*i*) The power under clause (*a*) of sub-section (*1*) shall be exercised by the State Government in the case of Judicial Magistrates in consultation with the High Court.

(*ii*) The power under clause (*b*) of sub-section (*1*) shall be exercised by the Sessions Judge with the approval of the High Court.

(*3*) The State Government may authorize a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the fourth Schedule."

Amendment of section 144 of Act V of 1898.

5. In section 144 of the said Code,—

(*1*) in sub-section (*1*),—

(*a*) after the words "a Chief Presidency Magistrate" the words "the Commissioner of Police" shall be inserted;

(*b*) after the words "such Magistrate", wherever they occur, the words "or the Commissioner of Police" shall be inserted;

(*2*) in sub-section (*4*), after the word "office." the following shall be inserted, namely:—

"If the order under this section is made by the Commissioner of Police, the Commissioner of Police may either of his own motion, or on the application of any person aggrieved, rescind or alter such order.";

(*3*) in sub-section (*5*), after the word "Magistrate", wherever it occurs, the words "or the Commissioner of Police" shall be inserted.

(*4*) after sub section (*5*), the following shall be inserted, namely:—

"(*5A*) The provisions of sub-section (*4*) of section 435 shall apply to an order passed by the Commissioner of Police under this section."

Amendment of section 145 of Act V of 1898.

6. In section 145 of the said Code, in sub-section (*1*), after the words "whenever a" the words "Chief Presidency Magistrate", shall be inserted.

Amendment of section 148 of Act V of 1898.

7. In section 148 of the said Code, in sub-section (*1*), after the words "any District Magistrate," the words "a Chief Presidency Magistrate" shall be inserted.

Amendment of section 190 of Act V of 1898.

8. In section 190 of the said Code, in sub-section (*1*), for the words "in this behalf by the State Government in consultation with the High Court" the words and figures "in that behalf under section 37" shall be substituted.

Amendment of section 518 of Act V of 1898.

9. In section 518 of the said Code—

(*1*) for the words "to the District Magistrate or to a Sub-Divisional Magistrate" the words "in Greater Bombay, to a Presidency Magistrate specially empowered by the State Government and elsewhere, to the District Magistrate or a Sub-Divisional Magistrate" shall be substituted;

(*2*) in the marginal note to the said section, for the words "District or Sub-Divisional Magistrate" the words "Presidency, District or Sub-Divisional Magistrate" shall be substituted.

Amendment of Schedule III to Act V of 1898.

10. In Schedule III to the said Code,—

(*1*) in Part IV—

(*a*) after item (2c), the following shall be inserted, namely :—

" (2cc) Power to require security for good behaviour, section 108 ; " ;

(*b*) item (9) shall be deleted ;

(*2*) in Part V, in item (4), the words " in case of sedition " shall be deleted.

Amendment of Schedule IV to Act V of 1898.

11. In Schedule IV to the said Code,—

(*1*) in Part I,—

(*i*) after the word and figure " Part I " the brackets and letter " (A) " shall be inserted ;

(*ii*) the following shall be added after entry 4 under the heading " *Powers with which a Magistrate of the Third Class may be invested* ", namely :—

" (B) By a Sessions Judge.

Powers with which any Judicial Magistrate may be invested.

1. Power to take cognizance of offences upon complaint, section 190 ;
2. Power to take cognizance of offences upon police reports, section 190. " ;

(*2*) in Part II, after entry 6 under the heading " *Powers with which any other Executive Magistrate may be invested* ", the following shall be inserted, namely :—

" *Powers with which a Taluka Magistrate may be invested.*

Power to require security to keep the peace, section 107. "

Amendment of section 4 of Bom. XXIII of 1951.

Bom. XXIII of 1951.

12. Section 4 of the Bombay Separation of Judicial and Executive Functions Act, 1951, hereinafter referred to as the Separation of Judicial and Executive Functions Act, shall be numbered as sub-section (*1*) of the same section and—

(*1*) in sub-section (*1*) so numbered,—

(*a*) for the words " Nothing in this Act " the words " Save as provided in this section, nothing in this Act " shall be substituted ;

(*b*) for clause (*c*) the following shall be substituted, namely :—

" and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of the relevant enactments as amended by this Act. "

(*2*) after sub-section (*1*) so numbered, the following sub-section shall be inserted, namely :—

" (*2*) All legal proceedings pending before a Magistrate or Court on the date on which this Act comes into force shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the relevant enactments as amended by this Act, stand transferred to the Magistrate or Court having jurisdiction under the provisions of the relevant enactments as amended by this Act and shall be heard and disposed of by such Magistrate or Court and such Magistrate and Court shall have all the powers and jurisdiction thereof as if they had been originally instituted before such Magistrate or in such Court. "

Amendment of Schedule to Bom. XXIII of 1951.

13. In Part II of the Schedule to the Separation of Judicial and Executive Functions Act. before the entry relating to the Metal Tokens Act, 1889 (I of 1889), the following shall be inserted in columns 1 to 4, namely :—

"1	2	3	4
1871	I	The Cattle-trespass Act, 1871.	(1) In section 20, for the words 'the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District' the words 'the Magistrate of the First Class' shall be substituted. (2) in sections 24, 26 and 27 the words 'before a Magistrate' shall be deleted."